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Data Protection Complaints Policy

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Author:	Information Governance Officer		
Director Responsible	Chief Nurse		
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Information Governance Operational Group		March 2026	
Links or overlaps with other policies:			
<ul style="list-style-type: none"> Information Governance Policy Individual Information Rights Policy 			
<p>We are committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): Sexual Orientation; Gender; Age; Gender Reassignment; Pregnancy and Maternity; Disability; Religion or Belief; Race; Marriage and Civil Partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.</p> <p>We are committed to ensuring all services, policies, projects and strategies undergo equality analysis. For more information about equality analysis and Equality Impact Assessments please refer to the Equality and Diversity Policy.</p>			

Amendment History

Issue	Status	Date	Reason for Change	Authorised
1	Final	April 2026		Information Governance Operational Group

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1. Introduction

- 1.1 Torbay and South Devon NHS Foundation Trust ('the Trust') is committed to protecting personal data and upholding the rights of individuals whose information it processes.
- 1.2 The proper handling of personal data is fundamental to maintaining trust and confidence in the Trust, and underpins the delivery of safe, effective and compassionate care.

2. Purpose

- 2.1 This Policy sets out the Trust's arrangements for receiving, considering, investigating and responding to complaints relating to data protection. It establishes a clear, transparent and accessible framework that ensures concerns about the use of personal data are handled fairly, consistently and in line with legal and regulatory requirements.
- 2.2 The Policy gives effect to the Trust's statutory duties under the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 (as amended), and the Data Use and Access Act 2025, and reflects the rights, pledges and values set out in the NHS Constitution for England, particularly those relating to confidentiality, transparency, respect and the right to raise concerns.

3. Scope

- 3.1 This policy applies to all data protection complaints raised with the Trust by patients, service users, staff, carers, members of the public, contractors and partner organisations.
- 3.2 A data protection complaint may relate to any concern about how the Trust collects, uses, shares, stores, accesses, retains or otherwise processes personal data.
- 3.3 The policy applies to all personal data processed by the Trust in its role as a Data Controller or Joint Controller, regardless of format or system, and to all individuals working for or on behalf of the Trust, including permanent and temporary staff, contractors, volunteers. This includes processing activities carried out by third parties on behalf of the Trust.
- 3.4 This policy should be read alongside the Trust's Information Governance Policy, Information Governance Procedures, and Feedback and Complaints Policy.
- 3.5 For the avoidance of doubt, any complaints received around clinical practice or other corporate services are not within the scope of this policy.

4. Roles and Responsibilities

- 4.1 The **Data Protection Officer** provides independent oversight, advice and assurance and acts as the point of contact with the ICO where required. They will offer the final conclusion as to whether any data protection complaint is upheld.
- 4.2 The **Chief Executive Officer** is responsible for ensuring that all staff support the

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independence of the Trust's Data Protection Officer in facilitation of data protection complaint investigations.

- 4.3 The **Caldicott Guardian** offers advice and response where the complaints relate to the ethical use of patient information.
- 4.4 The **Information Governance Team** investigate complaints made under this policy and are responsible for the management of all complaints. They will report any issues with complaints to the Data Protection Officer for oversight.
- 4.5 The **Data Access and Disclosure Office** are responsible for acting as the primary point of contact for any data protection complaints and escalation of these to the information governance office for review and investigation.
- 4.6 **Senior managers** are responsible for receiving assurance and ensuring that appropriate governance arrangements are in place for the management of data protection complaints.
- 4.7 **All staff** are responsible for recognising potential data protection complaints and ensuring they are escalated appropriately.

5. Definitions

- 5.1 A data protection complaint is any expression of dissatisfaction, or allegation that the Trust has not complied with data protection legislation or has not handled personal data appropriately.
- 5.2 Such complaints may relate to, for example, the handling of subject access requests, inappropriate access to or disclosure of personal data, data security or confidentiality concerns, data accuracy, data retention or deletion, or concerns about the fairness or transparency of data use. This list is not exclusive.
- 5.3 A complaint does not need to explicitly reference data protection legislation to fall within the scope of this Policy. Where there is uncertainty, the Trust will take a pragmatic approach and consider the substance and intent of the concern raised. Liaison with other complaints handling teams and the complainant will be used to identify if the complaint falls within the scope of this policy.

6. Principles for managing data protection complaints

- 6.1 All complaints will be handled fairly, respectfully and transparently. Individuals raising concerns will be treated with dignity and will receive clear and open communication throughout the process.
- 6.2 The complaints process will be accessible and inclusive. Individuals will not be required to use legal or technical language to raise a complaint, and the Trust will accept complaints through a range of channels, including verbal complaints.
- 6.3 Complaints will be addressed in a timely and proportionate manner. The depth and complexity of any investigation will be appropriate to the nature of the concern and the potential risk to individuals' rights and freedoms.

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7. Facilitation of complaints

- 7.1 Complaints may be made verbally or in writing and may be received through the Information Governance Team, Trust complaints or feedback routes, or during routine interactions with Trust staff.
- 7.2 Staff who receive a concern that may constitute a data protection complaint must ensure that it is promptly escalated to the Information Governance Team for assessment and handling in line with this Policy.
- 7.3 The Trust will formally acknowledge data protection complaints within 30 days of receipt. Acknowledgements will confirm that the concern has been recognised as a data protection complaint, explain how it will be handled, outline anticipated next steps and provide a point of contact.
- 7.4 Complaints will be appropriately recorded to support transparency, auditability and organisational learning.
- 7.5 The Trust will investigate data protection complaints without undue delay. Investigations may involve reviewing relevant records or systems, engaging with relevant services or managers, and seeking advice from the Information Commissioners Office where appropriate.
- 7.6 Where investigations are complex or ongoing, the Trust will keep the individual informed of progress within agreed timeframes.
- 7.7 Once a conclusion has been reached, the Trust will provide a clear, reasoned outcome explaining the findings, the basis for any decision reached and any actions taken.
- 7.8 Responses will be clear, factual and written in plain English and made accessible where reasonably required.
- 7.9 The Data Protection Officer will make an independent assessment of the complaint and decide whether the complaint is upheld fully, upheld in part, or not upheld.

8. Outcomes and remedies

- 8.1 Where a complaint is upheld, the Trust will take appropriate and proportionate remedial action. This may include correcting personal data, strengthening controls, improving processes, providing additional training or offering an apology and explanation.
- 8.2 Where a complaint is not upheld, the Trust will clearly explain the reasons for the decision and where applicable, the lawful basis for the relevant processing activity.

9. Referral to the Information Commissioner's Office

- 9.1 The Trust recognises the statutory role of the Information Commissioner's Office (ICO) as the independent regulator for data protection. In accordance with the Data Use and Access Act 2025, individuals are generally expected to raise data protection

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complaints with the Trust in the first instance.

- 9.2 Where an individual remains dissatisfied following the Trust’s response, they will be informed of their right to escalate the matter to the ICO and provided with appropriate contact information.

10. Governance, monitoring and review

- 10.1 The Trust will maintain appropriate records of data protection complaints, actions taken and outcomes. Complaint information will be monitored to identify themes, systemic risks or learning opportunities.
- 10.2 Assurance and learning from data protection complaints will be reported through established Information Governance structures to support oversight, compliance and continuous improvement.
- 10.3 Any learning identified will have an action plan put in place to address which will have timescales included for re-audit/monitoring.
- 10.4 All staff are responsible for maintaining compliance with this policy.

11. Training and awareness

- 11.1 The Trust will ensure that staff receive appropriate information governance training, including awareness of this policy and how to recognise and respond to data protection complaints.

12. Distribution

- 12.1 This policy document will be made available to staff via ICON, the Trust Website and signposted in the Staff Bulletin.
- 12.2 Awareness will be raised through Equality Impact Assessment training, all ratifying committees/groups, policies and procedures training and ICON.

13. Key Contacts

Name	Email address
Data Access and Disclosure Office	tsdft.dataprotection@nhs.net
Information Governance Office	tsdft.igteam@nhs.net

14. Appendices

Appendix 1: Rapid Equality Impact Assessment

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Appendix 1

Rapid Equality Impact Assessment *(for use when writing policies and procedures)*

Policy Title (and number)	<i>Data Protection Complaints Policy</i>	Version and Date	1, April 2026
Policy Author	Information Governance Officer		
An equality impact assessment (EIA) is a process designed to ensure that a policy, project or scheme does not discriminate or disadvantage people. EIAs also improve and promote equality. Consider the nature and extent of the impact, not the number of people affected.			
EQUALITY ANALYSIS: How well do people from protected groups fare in relation to the general population? <i>PLEASE NOTE: Any 'Yes' answers may trigger a full EIA and must be referred to the equality leads below</i>			
Is it likely that the policy/procedure could treat people from protected groups less favorably than the general population? (see below)			
Age	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Disability	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Race	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Gender	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Gender Reassignment	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Pregnancy/ Maternity	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
		Sexual Orientation	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
		Religion/Belief (non)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
		Marriage/ Civil Partnership	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Is it likely that the policy/procedure could affect particular 'Inclusion Health' groups less favorably than the general population? (substance misuse; teenage mums; carers ¹ ; travellers ² ; homeless ³ ; convictions; social isolation ⁴ ; refugees)			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please provide details for each protected group where you have indicated 'Yes'.			
VISION AND VALUES: Policies must aim to remove unintentional barriers and promote inclusion			
Is inclusive language ⁵ used throughout?			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Are the services outlined in the policy/procedure fully accessible ⁶ ?			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Does the policy/procedure encourage individualised and person-centered care?			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Could there be an adverse impact on an individual's independence or autonomy ⁷ ?			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If 'Yes', how will you mitigate this risk to ensure fair and equal access?			
EXTERNAL FACTORS			
Is the policy/procedure a result of national legislation which cannot be modified in any way?			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
What is the reason for writing this policy? (Is it a result in a change of legislation/ national research?)			
Data Use and Access Act 2025			
Who was consulted when drafting this policy/procedure? What were the recommendations/suggestions?			
ACTION PLAN: Please list all actions identified to address any impacts			
Action	Person responsible	Completion date	
AUTHORISATION:			
By signing below, I confirm that the named person responsible above is aware of the actions assigned to them			
Name of person completing the form	Jake Gibbons, Information Governance Officer	Signature	
Validated by (line manager)	Jamie Whaling, Associate Director of Legal Services and Acting Data Protection Officer	Signature	

Any issues Please contact Diversity & Inclusion Lead

For Torbay and South Devon NHS Trusts, please call 01803 656676 or email pfd.sdhct@nhs.net

¹ Consider any additional needs of carers/ parents/ advocates etc, in addition to the service user
² Travellers may not be registered with a GP - consider how they may access/ be aware of services available to them
³ Consider any provisions for those with no fixed abode, particularly relating to impact on discharge
⁴ Consider how someone will be aware of (or access) a service if socially or geographically isolated
⁵ Language must be relevant and appropriate, for example referring to partners, not husbands or wives
⁶ Consider both physical access to services and how information/ communication is available in an accessible format
⁷ Example: a telephone-based service may discriminate against people who are d/Deaf. Whilst someone may be able to act on their behalf, this does not promote independence or autonomy